

LIBER 1 PAGE 319

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

1973 Legislative Session, Legislative Day No. LSJ 73-35 - NOVEMBER 20, 1973

Bill No. 73-63

Introduced by Mr. O'Neill at the request of the County Executive

AN ACT to add new Section 201B, heading, "Employee Labor Relations", to the Code of Public Local Laws of Harford County (1965 Edition, as amended); to provide for recognition by Harford County of employee representation units, to establish employee rights, County responsibilities; to provide for impasse procedures; to provide for grievance procedures and appeals therefrom and generally relating to Harford County employee labor relations.

By the Council NOVEMBER 20, 1973

Introduced, read first time, ordered posted and public hearing scheduled on

DECEMBER 20 1973, at 7:30 P.M. in the
Council Hearing Room, Bel Air, Maryland.

By order, *Wm. G. B. Johnston*, Secretary

PUBLIC HEARING

Having been posted and Notice of time and place of hearing

1 Section 1. Be It Enacted by the County Council of Harford County,
2 Maryland, that new Section 201B, heading, "Employee Labor Relations
3 be, and it is hereby, added to the Code of Public Local Laws
4 of Harford County to read as follows:

5 201B. Employee Labor Relations.

6 (a) Statement of Policy and Purpose

7 In order to promote harmonious and cooperative
8 relationships between the County and its employees and to
9 protect the public by assuring at alltimes the orderly and
10 uninterrupted operations of the County Government, the Harford
11 County Council declares that it is the public policy of this
12 County, subject to the limitations of the Constitution and the
13 applicable laws of the State of Maryland, that County employees
14 be permitted to participate effectively in the determination
15 of the terms and conditions of their employment. It is also
16 the purpose of this Section to strengthen existing relationships
17 between the County, its employees and their representatives
18 by imposing on each the obligation to enter into negotiations
19 with affirmative willingness to reach agreement in matters of
20 wages, hours, working conditions, and other terms of employment
21 with due regard for, and subject to, the provisions of
22 applicable laws and the Charter provisions governing public
23 employment and fiscal procedures in Harford County.

24 (b) Definitions. For the purposes of this Act only,
25 the following terms are defined as follows:

26 (1) "Appropriate Representation Unit" - a grouping
27 of classified positions in the County Service which, by the
28 application of the provisions of this Section, has been deemed
29 appropriate for the purposes of collective negotiations.

1 (3) "Days" - all reference to days within this law are
2 deemed to be calendar days.

3 (4) "Confidential Employee" - an employee who, has a
4 functional responsibility, assists and acts in a confidential
5 capacity to County officials who formulate, determine and
6 effectuate policies in the field of employee relations.

7 (5) "County" - Harford County, Maryland

8 (6) "County Employees" - all persons occupying classified
9 positions as defined in the Charter of Harford County, except
10 confidential employees and attorneys employed to represent the
11 County in any capacity.

12 (7) "County Officials" - the County Executive, the
13 Director of Administration and all Department and Office Heads
14 appointed in accordance with the Charter of Harford County.

15 (8) "Employee Organizations" - any lawful association,
16 labor organization, federation, council or brotherhood, the
17 primary purpose of which is to represent County employees
18 concerning terms and conditions of employment, and having a
19 local constitution or by-laws and a roster of officers duly
20 elected in accordance with said constitution or by-laws; such
21 term shall not include any organization which (1) advocates the
22 overthrow of the constitutional forms of government in the
23 United States, or (2) discriminates with regard to the terms
24 or conditions of membership because of race, color, creed, sex,
25 age, national origin or political affiliation.

26 (9) "Exclusive Representative" - an employee organization
27 which has been certified as the collective bargaining agent for
28 an appropriate representation unit for the purpose of represent-
29 ing County employees within that unit, regardless of employee

1 (11) "Intervenor Employee Organization" - an employee
2 organization which has complied with the provisions of this
3 Section that permits it to be included with the petitioning
4 organization as one of the choices on the ballot in a represen-
5 tation election.

6 (12) "Lockout" - the temporary withholding of work,
7 by means of shutting down an operation or function of the
8 County, from a group of employees in order to bring pressure
9 on them or on their representatives to accept a change in
10 compensation or rights, privileges, obligations or other terms
11 and conditions of employment.

12 (13) "Management Employee" - any individual, including,
13 but not limited to, a foreman, supervisor, superintendent, chief,
14 director or deputy director, whose primary or exclusive functional
15 responsibility is to exercise the authority, in the interest
16 of the County, to hire, transfer, suspend, lay-off, recall,
17 promote, discharge, assign, reward, or discipline other employees
18 or responsibility to direct them or to adjust their grievances,
19 or effectively to recommend such action if (in connection with
20 the foregoing) the exercise of such authority is not of a merely
21 routine or clerical nature, but requires the use of independent
22 judgment.

23 (14) "Mediation" - the process whereby the parties
24 seek to reconcile their differences through the services of a
25 third party who acts as an intermediary in bringing the parties
26 together and actively seeks to assist the parties in reaching
27 a settlement, by making suggestions, providing background
28 information and noting avenues open to the parties for settlement.
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1 (15) "Professional Employee" - an employee engaged in
2 work which is predominantly intellectual and varied in character
3 as opposed to routine mental, manual, mechanical or physical
4 work; which involves the consistent exercise of discretion and
5 judgment in its performance; which is of such a character
6 that the output produced or the result accomplished cannot be
7 standardized in relation to a given period of time; and which
8 requires knowledge of an advanced type in a field of science
9 or learning customarily acquired by a prolonged course of
10 specialized intellectual instruction and study in an institution
11 of higher learning, as distinguished from a general academic
12 education or from an apprenticeship or from training in the
13 performance of routine mental, manual or physical processes.

14 (16) "Strike" - by concerted action, the failure to
15 report for duty, the willful absence from one's position, the
16 stoppage or slowdown of work or the abstinence in whole or in
17 part from the full, faithful and proper performance of the
18 duties of employment for the purpose of inducing, influencing,
19 coercing or preventing a change in compensation or rights,
20 privileges, obligations or other terms and conditions of
21 employment.

22 (c) County Employee Rights

23 (1) County Employees shall have the right to form,
24 join, assist and participate in the activities of employee
25 organizations of their own choosing for the purpose of
26 representation of all matters of employee relations, except
27 that management employees shall not have the right to join,
28 assist or participate in the activities of any employee
29 organization, or any of its affiliates, representing or seeking

1 or seeking to represent non-confidential employees of the County.
2 County employees also shall have the right not to join any
3 employee organizations or participate in their activities, and
4 shall have the right to represent themselves individually or
5 designate their personal representative in their employment
6 relations with the County. No employee shall be interfered with,
7 intimidated, restrained, coerced or discriminated against
8 because of his exercise of these rights.

9 (2) An employee organization officially certified
10 as the exclusive representative for a representation unit in
11 accordance with this Act is the only employee organization
12 entitled to membership dues deduction privileges after
13 presentation of dues deduction authorization cards signed by
14 individual employees. This privilege ceases upon decertification
15 in accordance with the provisions of this Act; notwithstanding
16 the above no employee organization membership dues shall be
17 deducted on behalf of any employee whose position is not
18 included in an appropriate representation unit nor on behalf
19 of any employee organization unless such organization is the
20 exclusive representative of the representation unit in which
21 the employee is working.

22 (d) County responsibilities.

23 Notwithstanding any other provisions contained herein,
24 it is the exclusive right of the County to determine the purposes
25 and objectives of each of its constituent offices and depart-
26 ments; set standards of services to be offered to the public;
27 to determine the methods, means, personnel and other resources
28 by which the County's operations are to be conducted and exercise
29 control and discretion over its organization and operations.

1 employees to hire, promote, transfer, assign or retain employees
2 and to establish reasonable work rules; also to demote, suspend,
3 discharge or take any other appropriate disciplinary action
4 against its employees for just cause and to relieve its employees
5 from duty because of lack of work or other legitimate reason, in
6 accordance with the County Charter and other applicable laws.
7 The provisions of this Section shall be deemed to be part of
8 every memorandum of agreement executed between the County and
9 an employee organization provided, however, that nothing
10 contained in this subsection shall be deemed to deny the right
11 of any employee to submit a grievance.

12 (e) Recognition and Certification of Employee Organizations.

13 (1) An employee organization which seeks formal
14 recognition for purposes of collective bargaining as an exclusive
15 representative of employees in an appropriate representation
16 unit, shall file a petition for certification with the Personnel
17 Officer containing the following information and documentation:

18 (i) A certified copy of the organization's
19 constitution or by-laws along with a roster of officers duly
20 elected in accordance with such constitution or by-laws, and
21 a delineation of all intra-organizational and inter-organizational
22 affiliations.

23 (ii) A statement that the employee organization
24 has a primary purpose, the representation of employees in their
25 employment relations with the County.

26 (iii) A statement that the employee organization
27 has no terms or conditions of membership which discriminate
28 with regard to race, color, creed, sex, age, political
29 affiliation or national origin.

1 (v) A written list containing each job class
2 title to be included in the proposed representation unit.

3 (vi) A statement that the employee organization
4 has in its possession written proof, dated within six (6) months
5 of the date upon which the petition is filed, to establish
6 that at least thirty (30) percent of the employees in the unit
7 claimed to be appropriate have designated the employee organi-
8 zation to represent them in their employment relations with
9 the County. This percentage (thirty percent 30%) may be
10 verified by ~~an appropriate State agency~~ upon request of the
11 Personnel Officer.

12 (2) Such a petition may be received by the Personnel
13 Officer only during the time period beginning with the date
14 this ordinance takes effect and December 31st of the same
15 calendar year. In subsequent years, such petitions may be
16 received not more than ninety (90) nor more than sixty (60)
17 days prior to the contract termination or any time after
18 decertification.

19 (3) Upon receipt of such petition, the Personnel
20 Officer shall give adequate and timely notice of the filing
21 to the employees in the proposed unit and shall, within
22 thirty (30) days of the filing date of the petition determine
23 either that the proposed unit is an appropriate representation
24 unit, or that an alternative unit is the appropriate represen-
25 tation unit, the following factors, among others, shall be
26 considered:

27 (i) Which unit will assure employees the fullest
28 freedom in the exercise of rights described in this Section.

29 (ii) The community of interest among employees

1 (iii) The history of employee relations within
2 the County.

3 (iv) The effect on the existing classification
4 structure of dividing a single classification among two or more
5 units.

6 (v) The effect of the unit on the overfrag-
7 mentation of the Classified Service to the detriment of mutually
8 beneficial relationships between the County and the employees.

9 (vi) The effect of the unit on the efficient
10 operation of the public service.

11 (4) Provided, however, that no unit shall be
12 established solely on the basis of the extent to which employees
13 in the unit have organized, and that professional employees shall
14 not be denied the right to be represented separately from non-
15 professional employees, nor shall management and confidential
16 employees be included in the same unit with non-management
17 or non-confidential employees.

18 (5) In the event that the Personnel Officer and
19 the petitioning employee organization are in disagreement as
20 to the determination of the appropriate representation unit, the
21 issue shall be submitted to binding arbitration at the request
22 of either party. If the parties are unable otherwise to agree
23 on an arbitrator within five (5) days of the initial request,
24 they shall make their selection from a list of five (5) neutrals
25 submitted by the American Arbitration Association. If the
26 parties are unable to agree upon the selection of one of the
27 arbitrators within three (3) work days after receipt of the
28 list, then the Administration and the Employee Organization
29 shall strike one name from the list alternately until one name

1 The remaining person shall be the duly selected arbitrator. If,
2 for any reason, the selected arbitrator is unable to serve,
3 then the arbitrator shall be appointed directly by the American
4 Arbitration Association. The arbitrator shall render his deci-
5 sion within thirty (30.) calendar days after his appointment
6 unless the parties mutually agree to extend the time limit.
7 The arbitrator's decision shall be final and binding on the
8 parties. The cost of arbitration shall be borne equally by
9 the parties involved.

10 (6) When an appropriate representation unit has
11 been determined, the Personnel Officer shall give adequate and
12 timely notice of the determination to all employees within
13 the newly established representation unit, and shall arrange
14 for a secret ballot certification election to be conducted by
15 the Maryland State Department of Licensing and Regulation,
16 Division of Labor and Industry, in which the employees in such
17 unit shall be offered a choice between exclusive representation
18 by the petitioning employee organization or of no exclusive
19 representation.

20 (i) Provided, however, that if an intervenor
21 employee organization certifies that at least thirty percent
22 (30%) of the employees in the unit have designated it to
23 represent them in their employment relations with the County
24 and if such organization complies with the requirements of
25 subsection e (1) (i) through (iv) inclusive, then the ballot
26 shall offer a choice among the petitioning employee organization,
27 any intervenor employee organization, or of not exclusive
28 representation.

29 (ii) Any employee organization shall be

1 the employees in the unit in which the election or run-off
2 election is held (i.e. fifty percent (50%) plus one (1) of
3 the votes cast by eligible employees).

4 (iii) If an election involving three (3) or
5 more choices, where none of the choices receives a majority
6 of the votes cast, a run-off election shall be conducted
7 between the two (2) choices receiving the largest number of
8 votes cast.

9 (7) No election for a new representative unit shall
10 be conducted when an election has been conducted within the
11 preceding one (1) year.

12 (8) The Personnel Officer shall report the results
13 of all elections.

14 (f) Rights and Duties of a Certified Employee
15 Organization are:

16 (1) When an employee organization has been thus
17 certified, the said employee organization shall have the
18 right and duty, through appropriate officials and representatives
19 to negotiate collectively with the County in matters related
20 to wages, hours, working conditions and other terms of employment
21 of all employees in the representation unit without discrimination
22 and without regard to any employee organization membership.

23 (2) The term "negotiation" as used herein, shall
24 include the duty to confer in good faith at reasonable times
25 and to reduce to a memorandum of agreement the matters agreed
26 upon as a result of such meetings and conferences when all
27 issues have been resolved, which memorandum shall be signed
28 by the duly authorized County and employee organization
29 representatives. Nothing contained herein shall preclude any

1 in a grievance or appellate action:

2 (3) Labor Organization and County Restrictions.

3 Neither the County nor any Labor Organization shall engage
4 in any unfair labor practice as set forth in any applicable
5 Federal or State Law.

6 (4) A labor organization which is accorded exclusive
7 recognition shall not deny membership to any employee in the
8 appropriate unit except for failure to meet reasonable occupa-
9 tional standards uniformly required for admission, or for failure
10 to tender initiation fees and dues uniformly required as a
11 condition of acquiring and retaining membership. This paragraph
12 does not preclude a labor organization from enforcing discipline
13 in accordance with its constitution or by-laws which conform to
14 the requirements of this Act.

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(g) Decertification of Employee Organizations

(1) A decertification petition alleging that a certified employee organization is no longer the majority representative of employees in an appropriate representation unit may be filed with the Personnel Officer by an employee, a group of employees or their representative, or an employee organization. Such petition calendar must be accompanied by written proof dated within ninety (90) days of the date on which the petition is filed, of employee approval equal to at least thirty (30) percent of the employees within the representation unit.

(2) A decertification petition may be received by the Personnel Officer only during the month of October of each year following the first full year of exclusive representation; and no decertification petition for the same representation unit shall be received more frequently than every two (2) years. The Personnel Officer shall arrange for a secret ballot election to be conducted by the Maryland State Department of Licensing and Regulation, Division of Labor and Industry in which the employees in such representation unit shall be offered a choice between the exclusive representation by the certified employee organization or no exclusive representation. Provided, however, that if an intervenor employee organization or organizations comply fully with the requirements set forth in this Section then the ballot shall offer a choice among the certified employee organization, any intervenor employee organization, or of no exclusive representation.

(3) The determination of election results shall be made in accordance with the criteria provided in this Section.

1 (4) When a valid memorandum of agreement is in
2 effect on the effective date of decertification of any
3 employee organization which is a party thereto, the County and
4 the newly certified employee organization (if there be any) shall
5 be bound by the provisions of that agreement during the remainder
6 of its term.

7 (h) Impasse Procedures

8 (1) If, after a reasonable period of negotiation
9 over the terms of an agreement, a dispute exists between the
10 certified employee organization or organizations with whom
11 it is negotiating, the parties may mutually agree that an impasse
12 has been reached; the dispute shall then be submitted to mediation.
13 If the parties are unable to otherwise agree on the mediator, the
14 Federal Mediation and Conciliation Service shall be requested to
15 provide a mediator.

16 (2) If the impasse is not resolved at least one
17 hundred thirty (130) days after impasse has been declared, a
18 factfinder shall be selected by mutual agreement between the
19 Administration and the employee organization (or organizations
20 as a group, where more than one employee organization is involved
21 in the dispute). If the County and the employee organization(s)
22 are unable to agree on the selection of a factfinder, they shall
23 make their selection from a panel of neutrals maintained by the
24 American Arbitration Association in accordance with the
25 procedures provided for in subsection 3 (5) hereof.

26 (3) The factfinder shall meet with the parties
27 and shall make written findings of fact and recommendations
28 for the resolution of the dispute, no later than thirty (30)
29 days before the budget submission date. Factfinding as used

1 (4) The factfinder, in making his findings and
2 recommendations, shall take into consideration among other
3 pertinent factors, wages, benefits, hours, and other working
4 conditions of other County employees, both in Harford County
5 and in other similar Maryland political jurisdictions; wages,
6 benefits, hours, and other working conditions of employees
7 of private employers in Harford County, the value of other
8 benefits available to or received by County Employees as
9 compared with private sector employees in Harford County;
10 cost-of-living data; and the availability of funds. Copies
11 of findings and recommendations shall be sent to the County
12 Executive, the employee organization or organizations involved
13 and to the mediator who may thereafter assist the parties to
14 effect a voluntary resolution of the dispute.

15 (5) In the event that the dispute remains unresolved
16 after thirty (30) days of mediation, the County Executive shall
17 submit the dispute to binding arbitration. The binding arbitra-
18 tion shall be submitted to the American Arbitration Association.
19 The County Executive may also submit a copy of the findings of
20 fact and recommendations of the factfinder along with his own
21 recommendation for settling the dispute. The decision of the
22 arbitration board shall be binding on both parties. The
23 cost of mediation, factfinding and arbitration shall be borne
24 equally by the parties involved in the dispute.

25 (i) Disputes

26 (1) Disputes concerning the interpretation or
27 application of this Section shall be submitted in writing
28 directly to the Personnel Officer within fifteen (15) days of
29 the date of occurrence of the action being appealed. If the

1 and the employee or employee organization desires further
 2 consideration by the Personnel Advisory Board, written request
 3 shall be submitted to the Personnel Officer within ten (10) days
 4 of the date of his action, decision or determination. The dispute
 5 shall be placed on the docket of the Personnel Advisory Board for
 6 hearing not later than ten (10) days after submission of the
 7 dispute. The Personnel Advisory Board shall render its
 8 decision on the dispute within fifteen (15) calendar days of
 9 the date it was submitted and the Personnel Advisory Board's
 10 decision shall be final and binding on all the parties. All
 11 hearings before the Personnel Advisory Board shall be in accor-
 12 dance with the provisions of existing law. Any hearing may, at
 13 the request of the employee, be public. These procedures apply
 14 only to the areas covered by this Act.

15 (j) Prohibition Against Strikes and Lockouts.

16 (1) It shall be unlawful for an employee or an
 17 employee organization to engage in, initiate, sponsor, support
 18 or direct a strike. If an employee or employee organization
 19 shall violate the provisions of this Section, the County
 20 Executive may take any one (1) or all, of the following actions
 21 he deems necessary in the public interest:

22 (2) Imposition of disciplinary action, including
 23 removal from County Service, of employees engaged in such
 24 illegal conduct;

25 (3) Termination of any employee organization's
 26 dues deduction privilege, if any;

27 (4) Revocation of exclusive representation,
 28 certification and disqualification from participation in
 29 representation elections for a period up to a maximum of two

(k) Personnel Officer. Miscellaneous provisions.

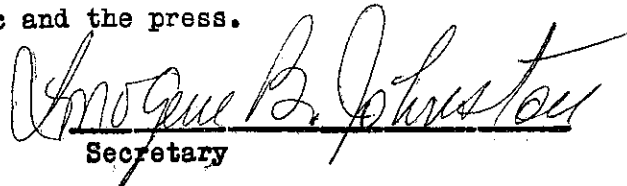
(1) Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned.

(2) Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating agency will either authorize official time for up to forty (40) hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives. Violation by an employee of this subsection shall subject the violator to appropriate disciplinary action.

Section 2. And Be It Further Enacted, that this Act shall take effect sixty (60) days from the date it becomes law.

Effective: March 18, 1974

The Secretary of the Council does hereby certify that fifteen (15) copies of this bill are immediately available for distribution to the public and the press.


Secretary

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BY THE COUNCIL

Read the third time.

Passed SD 74-3 - JANUARY 15, 1974 (~~XXXXXXXXXXXX~~)~~XXXXXXXXXXXX~~

By order

Emogene B. J. J. J., Secretary

Sealed with the County Seal and presented to the County Executive for his
 approval this 16TH day of JANUARY, 1974 at
10:00 o'clock A.M.

Emogene B. J. J. J., Secretary

BY THE EXECUTIVE

APPROVED:

Charles B. Anderson, Jr.
 Charles B. Anderson, Jr., County Executive

Date Jan 16 - 1974

BY THE COUNCIL

This Bill, having been approved by the Executive and